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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,196	05/09/2001	Robert A. Geyer	24954-15US	4202

7590

09/16/2003

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EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 09/16/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,196

Applicant(s)

GEYER ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 31-38 is/are pending in the application.
- 4a) Of the above claim(s) 32-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 24.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of the invention of Group I in Paper No. 6 is acknowledged. It is noted that the non-elected claims 20-30 have been deleted.
2. Applicant also added new claims 32-38 with claim 32 being a sub-combination claim with respect to the elected group I (which is drawn to a combination). Inventions I (the elected group) and II (newly added claims 32-38) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the closest claim in Group I (claim 12) does not require "a fastener extending through the first aperture and the bore and engaging the third aperture" (claim 32, lines 10-11). The subcombination has separate utility such as any device which would have an adjustable member and not a brush as required by the combination. As such, newly added claims 32-38 do not fall within the elected group and are withdrawn from consideration.

### ***Drawings***

3. The drawings are objected to because Figures 5-7 each include separate figures and should be clearly labeled as such (eg, Fig. 5A, etc). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of

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the application. The objection to the drawings will not be held in abeyance. NOTE: The "brief description" (pages 8 and 9) should be amended accordingly.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #30 (as per page 11, line 5) and #17 (as per page 15, line 18). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Specification***

5. The disclosure is objected to because of the following informalities: (1) "27" (page 9, line 29) is wrong in that #27 is used for the movement direction; (2) "100" (page 12, line 6) should be – 10 --; and (3) "43" (page 16, line 24) should be – 44 --.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. Claims 1- rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is incorrect for a few reasons. Claim 1 recites a single "cam member" and further recites both a threaded bore and an adjustment head member and further recites them as being on the same "cam member"; however, these elements (the threaded bore 35 and the adjustment head member 66) are on two distinct cam members (24 and 40). Also, the threaded bore (which receives the threaded fastening member 70) of the second cam member (40) is associated with the

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second aperture and not the first. Thus, the threaded bore is not "aligned" with the aperture (60) that is approximately equal in diameter thereto. It is actually aligned with the arcuate aperture (64). Also, the adjustment head member would seem to protrude through the first aperture as opposed to the second aperture as recited in claim 1 (line 19). In each of dependent claims 2-11, -- vehicle -- should follow "maintainance" (line 2 of each). Lines 1-4 of claim 2 duplicates subject matter already recited in the last three lines of claim 1 in that the second ring portion was already recited. "Housing" (claim 4, line 3) lacks antecedent. -- Member -- should follow "pin" (claim 6, line 3). "Suitable" (claim 7, line 3) should be -- suitably --. Are the cam members of claim 12 coupled to the "first attachment location" of both the brush members? This would also apply to lines 21-22 of claim 12. "Adjustable" (claim 12, line 23) should be -- adjustment --. As mentioned above, the reference to "said brush member" (claim 13, line 3) is confusing in that claim 12 recited plural brush members. Claim 15 is confusing in that claim 12 already recited first and second brush members. "Housing" (claim 15, line 2) should be -- housing member --. It would appear from preamble of claim 12 that claim 12 should have recited that the first cam member as coupled to one of the brush members at the first attachment location thereof. Claim 19 is confusing in that claim 12 already defined a ridge-receiving recess and a ridge feature. "At a first" (claim 31, line 5) would seem to be incorrect in that the first mounting structure was already said to at the first end of the brush. Applicant should review the claims for any additional informalities.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country; more than one year prior to the date of application for patent in the United States.

8. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Gaudry (USP 3,671,996). The patent to Gaudry discloses an assembly (10) comprising a brush (12) supported for rotation at each end thereof and further including an adjustable mechanism (16) at a first end and a source (14) of rotational motion at a second end and further wherein the mechanism has a pivot head member (32) at a pivot axis (33) and wherein it pivots between different "states". The remaining functional language of claim 31 fails to structurally distinguish the structure of Gaudry.

***Allowable Subject Matter***

9. Claims 1-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Conclusion***

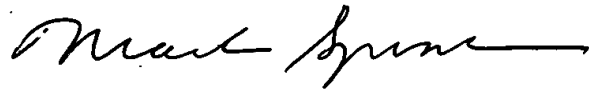
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Orr is further pertinent to an adjustment mechanism which includes a cam member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Mark Spisich", with a long horizontal flourish extending to the right.

Mark Spisich  
Primary Examiner  
Art Unit 1744

MS